

## REMARKS

The Office Action mailed September 12, 2005 ("Office Action"), has been received and carefully considered. Reconsideration of the outstanding rejections in the present application is respectfully requested based on the following remarks.

Claims 11 and 13 stand rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Applicants respectfully traverse.

The Examiner has invoked 35 U.S.C. § 101. That section unequivocally states as follows (emphasis added):

### **§101 Inventions Patentable**

Whoever invents or discovers *any new and useful process, machine, manufacture*, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The Court of Appeals For The Federal Circuit has interpreted patentable subject matter to include subject matter that produces useful, concrete and tangible results. *See, e.g., AT&T Corp. v. Excel Communications*, 172 F.3d 1352, 50 U.S.P.Q.2d 1447 (Fed. Cir. 1999) (finding that a patent's claims to a method for enhancing a long-distance telephone call message record by adding a data field with information on the long-distance provider of the call recipient "fall comfortably within the broad scope of patentable subject matter under §101."); *State Street Bank Trust & Co. v. Signature Financial Group, Inc.*, 47 U.S.P.Q.2d 1596 (Fed. Cir. 1998) (stating that mere fact that claimed invention involves inputting numbers, calculating numbers, outputting numbers, and storing numbers, would not, in and of itself, render invention non-statutory subject matter, unless its operation does not produce a useful, concrete and tangible result.)

Applicant respectfully submits that claims 11 and 13 define inventions that produce “useful, concrete and tangible results” and, thus, satisfy the requirements of 35 U.S.C. § 101. For example, claim 11 recites a new and useful article of manufacture (e.g., a computer readable medium). That such a article produces a useful, concrete and tangible result is unquestionable. Likewise, claim 13 recites a sequence of intrustions (i.e., a process) that also provides a useful, concrete and tangible resut. For at least these reasons, Applicant respectfully submits that the rejections under 35 U.S.C. § 101 are improper and requests that they be withdrawn.

Claims 1-3, 5-8 and 10-12 stand rejected as allegedly being unpatentable over the previously cited Piazza and McGuire. Claim 13 stands rejected as allegedly being unpatentable over the previously cited Piazza, McGuire and Bak. Applicants incorporate herein by reference and reiterate the arguments presented in previous papers.

As stated previously, Piazza does not disclose that his system is applicable to C/C++ program language. The Examiner responds that McGuire shows that C/C++ was well known at the time of invention. The Examiner further responds that because C/C++ was well known, it would have been obvious to modify Piazza because it would have provided more choices to use as development tools.

However, Applicants respectfully submit that the motivation of “providing more choices” is not one that would lead to the claimed invention. As supported by the evidence submitted by Applicants, each “choice” of language has its inherent difficulties and drawbacks that must be considered when programming. For example, the previously submitted “Appendix B” supports the position that C++

and Scheme are not interchangeable. Specifically, the first paragraph of

Appendix B states:

The reason for this page is that this course uses scheme, whereas many students in the class taking the course (most of whom are freshmen) have only programmed in C (and/or related languages like C++ or java) before. This is an issue because scheme and C each encourage a very different style of programming ....

Thus, those skilled in the art recognize the associated difficulties in going from programming C/C++ to programming in Scheme. Therefore, Applicants respectfully submit that, contrary to the Examiner's assertion, Appendix B provides evidence that it would not have been obvious to one of ordinary skill in the art to interchange Scheme and C++.

Finally, Applicants again submit that the rejections are improper because the proposed combination of Piazza and McGuire also fails to disclose or suggest a compiler for C/C++ programs. In fact, McGuire does not even use C/C++ in his claimed invention. McGuire uses the Curl Corporation language, not C/C++. Thus, the proposed combination of Piazza and McGuire fails to disclose or suggest at least "a first C/C++ program" as claimed by Applicants. For at least these reasons, Applicants respectfully request that the rejections of claims 1-3, 5-8 and 10-12 be withdrawn.

Claim 13 is rejected by Piazza, McGuire and Bak. However, Bak is relied upon to allegedly disclose "a data signal embodied as a carrier wave" and, thus, does not cure the above-noted deficiencies of the proposed combination of

Piazza and McGuire. For at least this reason Applicants respectfully request that the rejection of claim 13 be withdrawn.

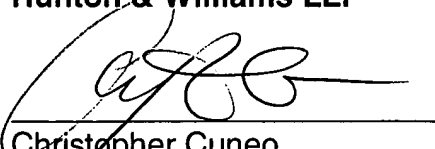
### CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number, in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-0206, and please credit any excess fees to the same deposit account.

Respectfully submitted,  
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